

**BERNALILLO COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**

**ORDINANCE NO. 2017-4**

**1 THE PREPARATION OF DISCLOSURE CERTIFICATES, DISCLOSURE**  
**2 STATEMENTS, OR RESALE CERTIFICATES AS REQUIRED BY THE NEW**  
**3 MEXICO HOMEOWNER ASSOCIATION ACT AND THE NEW MEXICO**  
**4 CONDOMINIUM ACT**  
**5 ESTABLISHING REASONABLE CHARGES FOR HOMEOWNERS AND**  
**6 CONDOMINIUM ASSOCIATIONS FOR THE PREPARATION OF DISCLOSURE**  
**7 CERTIFICATES, DISCLOSURE STATEMENTS, OR RESALE CERTIFICATES AS**  
**8 REQUIRED BY THE NEW MEXICO HOMEOWNER ASSOCIATION ACT AND THE**  
**9 NEW MEXICO CONDOMINIUM ACT.**

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11 An ordinance creating Bernalillo County Code Chapter 14 Businesses, Article XI intended to  
12 establish maximum amounts payable at the time of closing for preparation of a Disclosure  
13 Certificate as required by the New Mexico Homeowner Association Act, or for a Disclosure  
14 Statement or Resale Certificate as required by the New Mexico Condominium Association Act.

15 WHEREAS, the Condominium Act and Homeowners Association Act (the "Acts")  
16 establish certain minimum requirements and duties for condominium and homeowner  
17 associations in New Mexico; and

18 WHEREAS, pursuant to the Acts, property sellers are required to provide certain  
19 information to buyers about the respective association within which the subject property  
20 falls, including but not limited to a "disclosure certificate," "disclosure statement," or  
21 "resale certificate" that provides records and information relating to rights and interests of  
22 the association with respect to the subject property and financial information about the  
23 associations and its dues structure; and

24 WHEREAS, pursuant to the Acts, associations must provide these certificates to home  
25 sellers, but may impose a "reasonable charge" for preparing and providing the certificate, and

26 WHEREAS, the Act does not define what constitutes a "reasonable charge," and the  
27 resulting lack of clarity has created highly divergent charges by different homeowner or

**CONTINUATION PAGE 2, ORDINANCE 2017-4 . ESTABLISHING REASONABLE CHARGES FOR HOMEOWNERS AND CONDOMINIUM ASSOCIATIONS FOR THE PREPARATION OF DISCLOSURE CERTIFICATES, DISCLOSURE STATEMENTS, OR RESALE CERTIFICATES**

condominium associations for the exact same information, which makes residential closing costs unpredictable - with charges imposed by associations ranging from less than \$100 to over \$1,000; and

WHEREAS, because time is often of the essence in residential real estate transactions to meet lender requirements, buyer needs, or other requirements, without a fixed maximum charge, individual home buyers and sellers may have little power to hold associations accountable to the requirement that charges be reasonable; and

WHEREAS, establishment of a fixed and uniform reasonable charge for provision of records that should be readily available to the association, and need only be duplicated and provided, could help ensure greater equity and predictability for home buyers and sellers.

BE IT ORDAINED BY THE COUNTY COMMISSION, THE GOVERNING BODY OF BERNALILLO COUNTY.

SECTION 1. A new Article XI, titled "HOMEOWNER AND CONDOMINIUM ASSOCIATIONS" is added to Chapter 14 of the Code of Ordinances of Bernalillo County as follows:

Sec. 14-601 Reasonable Charges for Disclosure Certificates, Disclosure Statements, or Resale Certificates. Homeowner and Condominium Associations may impose a reasonable charge not to exceed \$200 payable per request at the time of closing for preparation of a Disclosure Certificate as required by the New Mexico Homeowner Association Act, or for a Disclosure Statement or Resale Certificate as required by the New Mexico Condominium Association Act.

Sec. 14-602. Severability Clause. If any section, paragraph, sentence, clause word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent

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jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The County Commission hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provisions being declared unconstitutional or otherwise invalid.

Sec. 14-603. Violations of this section are punishable as provided in section 1-6.

EFFECTIVE DATE. This ordinance shall take effect in 30 days.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BERNALILLO COUNTY, NEW MEXICO** this 28<sup>th</sup> day of March, 2017.

**APPROVED AS TO FORM**

W. Ken Martinez, County Attorney



**ATTEST:**

Linda Stover, County Clerk

**BOARD OF COUNTY COMMISSIONERS**

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Steven Michael Quezada, Vice Chair

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